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10/725,632

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SIGU3006/JEK/JJC

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EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

10/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,632

Applicant(s)

SIGURJONSSON ET AL.

Examiner

Kim M. Lewis

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3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-12,14,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-12,14,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/31/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 8/2/07 has been received and made of record. As requested, claim 1 has been amended. Claims 21-22 have been added.
2. Claims 1-4, 6-12, 14 and 21-22 and pending in the instant application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4, 6-11, 14, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,207,875 ("Lindqvist et al.") in view of U.S. Patent No. 6,485,776 ("Janusson et al.").

As regards claim 1, Lindqvist et al. disclose a wound dressing that anticipates applicant's presently claimed invention. More specifically, Lindqvist et al. discloses a wound dressing (7) for covering a wound, comprising a skin adherent facing layer (3') consisting of a discrete layer of hydrophobic, resilient, silicone gel (col. 3, lines 19-20 and col. 4, lines 51-52) having a plurality of preformed apertures (6) arranged in a pattern (note Figs. 2 and 2A).

Lindqvist et al. fail to teach that the silicone gel layer includes a skin treatment agent selected from the group consisting of aloe vera and petroleum jelly. However, Janusson et al. disclose a medical device for use on the skin comprising a silicone elastomer layer that includes one or more skin treatment agents blended into the silicone elastomer, for example, Vaseline and aloe vera.

In view of Janusson et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to add agents such as Vaseline and aloe vera to the silicone elastomer gel of Lindqvist et al. in order to treat the skin while the device is being worn.

Regarding claim 4, as can be seen from Fig. 2, Lindqvist et al. disclose the silicone gel layer as being substantially planar along a proximal surface thereof.

Regarding claim 6, as can be seen from Figs. 2 and 2A, Lindqvist et al. disclose apertures that are generally circular.

As regards claim 7, Lindqvist et al. disclose the wound dressing according to claim 1, wherein the apertures are generally uniform in shape since the aperture of the

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foam are uniform in shape and the apertures of the gel takes on the same shape (note col. 6, lines 31-33).

Regarding claim 8, as can be seen from Fig. 2, Lindqvist et al. disclose apertures that are generally equally spaced from one another.

As regards claim 2, 3 and 9-11, Lindqvist et al. substantially disclose the invention as claimed except that the plurality of apertures are defined in a pattern varying in number per unit area according to their location relative to a center axis of the silicone gel layer, that the plurality of apertures are defined in a pattern varying in size according to their location relative to a center axis of the silicone gel layer, that the pattern of the apertures comprises alternating apertures of at least two different sizes, that the apertures have two different sizes, the first size being larger than the second size and the apertures of the first size being bordered by the apertures of the second size, and that the apertures of the second size are bordered by the apertures of the first size.

Lindqvist et al., however, disclose at col. 4, line 67-col. 5, line 5, that the absorption rate of the dressing can be varied by varying the density of the hole pattern and the size of the holes, and that the hole pattern increases the flexibility of the dressing. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the arrangement of the holes and size of the holes in the absorbent foam, thereby varying the arrangement and size of the holes in the gel, in order to achieve a desired effect (e.g., increase the absorption rate, increase flexibility, etc.).

As regards claim 14, Lindqvist et al. inherently disclose the wound dressing according to claim 1, wherein the silicone gel layer has regions of varying thickness since the open cells are not uniform across the foam.

As regards claim 21, as can be seen from Figs. 1, 2 and 2A of Lindqvist et al., the layer of silicone gel is defined by opposed generally planar surfaces.

As regards claim 22, note the rejections of claims 1 and 21.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindqvist et al. and Janusson et al. as applied to claim 1 above, and in further view of U.S. Patent No. 6,461,467 ("Blatchford et al.").

As regards claim 12, both Lindqvist et al. and Janusson et al. fail to teach the silicone gel layer has a progressive increase of tackiness extending from a central portion to a border portion.

Blatchford et al., however, disclose a medical dressing with two adhesives, wherein one adhesive has greater adhesive tack than the other so as to allow the dressing to adhere better to the skin at certain locations, for example, the periphery of the dressing, and adheres less to the portion which contacts the wound (abstract, col. 2, lines 12-20 and lines 31-38).

In view of Blatchford et al., it would have been obvious to one having ordinary skill in the art to provide the modified dressing of Lindqvist et al. with a silicone gel layer having two different tacks, in order to allow the center portion of the dressing which contacts the wound to adhere less than, for example, the periphery of the dressing to

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which surrounds the wound. This will allow the dressing to firmly adhere to the skin, but only at areas surrounding the wound.

Response to Arguments

7. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US. Patent No. 6,136,039 discloses an silicone elastomer.


9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (571) 272-4796. The examiner can normally be reached on Wednesday to Friday, from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kim M. Lewis
Primary Examiner
Art Unit 3772

kml
October 11, 2007